

Client Rights Office

Department of Health and Family Services
Division of Disability and Elder Services

<http://dhfs.wisconsin.gov/clientrights/index.htm>

Community Programs Training 2005

PHYSICAL HEALTH CARE

Mental health patients are able to **exercise civil rights** and make their own decisions about their physical health care and lifestyle. [§ 51.59, Wis. Stats.]

- Is there a basis to question “competency” and **pursue guardianship**?
- What **competency/ functional assessments** have been completed?

Patients have a **right to consent to (or refuse)** all **medications and treatment** (for mental or physical health care), unless there is a court order permitting medication or treatment to be provided, **or except in an emergency** as **necessary** to **prevent serious physical harm** to the client or others. [§ 51.61(1)(g), Wis. Stats.]

The treatment facility has a right to use **customary and usual treatment** techniques in a reasonable and appropriate manner in treatment of patients, for the purpose of **ameliorating** the **conditions** for which the **patients** were **admitted** to the system (subject to informed consent or a court order to treat). [§ 51.61(6), Wis. Stats.]

- Is there a basis for seeking a **court order** for medication / treatment?
- Is there **direct linkage** between physical care and the mental illness?
- Could medication or treatment be provided on “**emergency**” grounds?

Assessments vs. Treatments:

A number of “**physical health**” **assessments** are **warranted** by virtue of a patient entering a treatment facility, to ensure a **safe and humane environment** for other patients and staff, and to ensure a **specific and accurate diagnosis**. (Example: **TB testing**.) [There are court precedents re: **contagious diseases**. See also HFS 94.09(6), Wis. Admin. Code]

- What is done as part of a **thorough assessment** for new patients?
- What **level of risk** is presented by any physical health care issues?
- How can the **treatment plan** incorporate physical health care issues?

Risk Assessment (and physical health care treatment) vs. Risk Management

- Is there a “**bottom line**” that might justify **emergency intervention**?
- What type of “**risk management**” **documentation** is being done?
- Could the “**rights limitation**” **process** be effectively used to ease some risks?
[e.g. right to possessions can be limited or restricted for cause]
